

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

OPERATING ENGINEERS LOCAL 66,)	
AFL-CIO AND CONSTRUCTION)	
INDUSTRY COMBINED FUNDS, INC.,)	
)	
Plaintiff,)	Civil Action No. 16-175
)	
v.)	Judge Cathy Bissoon
)	
SIMMONDS CONSTRUCTION)	
SERVICES, LLC,)	
)	
Defendant.)	

ORDER

Plaintiff's Motion (**Doc. 3**) to Compel Audit is **DENIED** without prejudice, as follows.

Given that Defendant has not answered or otherwise appeared, the Court questions the propriety of ordering Defendant, currently, to do anything. The undersigned's research has revealed a more appropriate course, namely, Plaintiff's seeking the entry of default, followed by a motion for default judgment including the audit-request as part of the relief sought. *See, e.g., Int'l Union of Operating Eng'rs of E. Pa. & Del. Benefit Pension Fund v. N. Abbonizio Contractors, Inc.*, 2015 WL 7273466, *1, *3-4 (E.D. Pa. Nov. 18, 2015) (granting motion for default judgment, including request for court-ordered audit); *Int'l Painters & Allied Trades Indus. Pension Fund v. Williamsport Mirror & Glass Co.*, 2015 WL 567304, *5 (D. Md. Feb. 9, 2015) (same).

IT IS SO ORDERED.

April 7, 2016

s/Cathy Bissoon
Cathy Bissoon
United States District Judge

cc (via ECF email notification):

All Counsel of Record